

Judiciary Committee Members Call for Investigation of Sheriff Arpaio's Disregard for Rights of Hispanic Residents

Friday, 13 February 2009

(Washington)-- House Judiciary Committee Chairman John Conyers, Jr. (D-Mich.), and Immigration Subcommittee Chairwoman Zoe Lofgren (D-Calif.), Constitution Subcommittee Chairman Jerrold Nadler (D-N.Y.), and Crime Subcommittee Chairman Bobby Scott (D-Va.) called on Attorney General Eric Holder and Homeland Security Secretary Janet Napolitano to investigate allegations of misconduct by Maricopa County (Arizona) Sheriff Joe Arpaio.

Sheriff Arpaio has repeatedly demonstrated disregard for the rights of Hispanics in the Phoenix metropolitan area. Under the guise of immigration enforcement, his staff has conducted raids in residential neighborhoods in a manner condemned by the community as racial profiling. On February 4, 2009, Arpaio invited the media to view the transfer of immigrant detainees to a segregated area of his "tent city" jail, subjecting the detainees to public display and "ritual humiliation." Persistent actions such as these have resulted in numerous lawsuits; while Arpaio spends time and energy on publicity and his reality television show, "Smile! You're Under Arrest!"; Maricopa County has paid millions of dollars in settlements involving dead or injured inmates.

"Racial profiling and segregation are simply not acceptable," said Conyers. "Media stunts and braggadocio are no substitute for fair and effective law enforcement."

"The basic premise of our justice system is that people are innocent until proven otherwise," said Rep. Zoe Lofgren. "I'm concerned that in Maricopa County that basic premise appears to have been turned upside down and that Latino members of community are considered 'undocumented' until proven otherwise. That's not how our Constitution works and it's time for the Departments of Justice and Homeland Security to take a closer look."

"We cannot tolerate vigilantes using the police power to violate the fundamental rights of anyone they can get their hands on," said Nadler. "Sheriff Arpaio has consistently abused his office in violation of federal law. It is time for the federal government to step in and uphold the rule of law in this country, even in Maricopa County."

"Law enforcement is not a game or a reality show, it is a public trust," said Scott. "There is no excuse for callous indifference to the rights of the residents of Arizona, whether in their neighborhoods or as pretrial detainees."

The text of the attached letter follows.

Dear Attorney General Holder and Secretary Napolitano:

We write today concerning allegations of misconduct on the part of Maricopa County, Arizona, Sheriff Joe Arpaio that we believe merit federal investigation and action.

In recent months, Arpaio has evinced a blatant disregard for the rights of Hispanic residents of the Phoenix area. Last summer, apparently overreaching his authority under 287(g) agreements with the Department of Homeland Security, Arpaio ordered his deputies to scour Latino neighborhoods in his jurisdiction to search out undocumented immigrants. Reports from the affected communities indicate that accepted notions of probable cause have been replaced by an analysis based solely on (in the words of columnist Ruben Navarette) their "brown skin and Spanish accents." As a result, members of the Latino community — whether they are US citizens or foreign-born, whether they are legal immigrants or undocumented — feel under siege.

Most recently, on February 4, after making sure to alert the media, Arpaio reportedly paraded approximately 200 suspected illegal immigrants in shackles to a segregated area of his "tent city" county facility, where they will supposedly remain until they are adjudicated and have served any sentences they face for local violations. The New York Times described this conduct as "ritual humiliation." The men who Arpaio is displaying like trophies are reportedly in pretrial detention, not having been convicted of any crime.

Through the years, Arpaio's actions have triggered numerous civil rights lawsuits, including federal action in the 1990s and a recent lawsuit by the Mexican American Legal Defense and Education Fund for racial profiling of Latino citizens and legal residents. However, his repeated course of conduct, which values publicity opportunities over the civil rights of residents of Arizona, is too disturbing to leave enforcement of the civil rights laws to private litigants. There are several tools at the federal government's disposal to address these allegations, and we urge their prompt consideration and application.

For instance, Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 14141), prohibits a "pattern or practice of conduct by law enforcement officers ... that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States" and authorizes the Attorney General to bring civil actions to prevent such practices. The Civil Rights of Institutionalized Persons Act, or "CRIPA", (42 U.S.C. § 1997) authorizes the Attorney General to conduct investigations and litigation relating to conditions of confinement in state or locally operated institutions to determine whether there is a pattern or practice of violations of residents' federal rights.

Section 242 of Title 18 of the U.S. Code prohibits anyone from acting under color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. Prior Administrations have undertaken a police misconduct initiative within the Civil Rights Division to coordinate enforcement of these civil and criminal civil rights statutes, and we hope that such cooperation will once again be a hallmark of the Department's civil rights enforcement efforts in the coming years.

Mr. Attorney General, we request that you direct the Special Litigation and Criminal Sections of the Civil Rights Division to undertake a federal investigation into the actions of the Maricopa County Sheriff's Office, under the authority of 42 U.S.C. § 14141, the Civil Rights of Institutionalized Persons Act (CRIPA), 18 U.S.C. § 242, and any other applicable federal statutes or Constitutional provisions.

Madam Secretary, we request that you review Maricopa County's agreements with the Department of Homeland Security under Section 287(g) of the Immigration and Nationality Act and take such action as necessary to ensure that the Maricopa County Sheriff's Office conforms to the terms of that agreement and that such agreement is not used to justify the racial profiling of any resident of Arizona. We urge that such agreement be terminated if the situation cannot be remedied. We further request that you immediately provide to the Committee a copy of any agreement between the Department of Homeland Security and the County, whether under Section 287(g) or any other provision of law, such as intergovernmental service agreements to house apprehended immigrants.

Please keep us informed regarding any developments in response to this request. Specifically, we would like to know what actions your Departments will take to ensure that Hispanic residents of Maricopa County are not subjected to racial profiling, unequal treatment at the hands of Sheriff's Department personnel, or violations of generally accepted standards of confinement. Responses and questions should be directed to the Judiciary Committee office, 2138 Rayburn House Office Building, Washington, DC 20515. We thank you in advance for your cooperation in this important matter.